

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

ATLANTIC RECORDING)	Civil No. 06-00622 HG/BMK
CORPORATION; VIRGIN)	
RECORDS AMERICA, INC.;)	FINDING AND
MOTOWN RECORD COMPANY,)	RECOMMENDATION THAT
L.P.; UMG RECORDINGS, INC.;)	PLAINTIFFS' APPLICATION
SONY BMG MUSIC)	FOR DEFAULT JUDGMENT BE
ENTERTAINMENT; and ARISTA)	GRANTED
RECORDS LLC,)	
)	
Plaintiffs,)	
)	
vs.)	
)	
OLIVER HAIOLA a/k/a KIMO)	
OLIVER HAIOLA,)	
)	
Defendant.)	

FINDING AND RECOMMENDATION THAT PLAINTIFFS'
APPLICATION FOR DEFAULT JUDGMENT BE GRANTED

Before the Court is Plaintiffs' Application for Entry of Default Judgment. After careful consideration of the application, and having received no opposition to this application, the Court hereby FINDS and RECOMMENDS that Plaintiffs' application be GRANTED and that default judgment be entered in favor of the Plaintiffs.

On November 21, 2006, Plaintiffs filed a complaint alleging that Defendant intentionally downloaded and distributed Plaintiffs' copyrighted

songs. The complaint and summons were served on December 8, 2006. Defendant failed to answer within 20 days, as required by Rule 12 of the Federal Rules of Civil Procedure. The Clerk entered a default in favor of Plaintiffs on March 12, 2007. On March 30, 2007, Plaintiffs filed the present application for default judgment. Having been adjudged to be in default, the Court recommends that Plaintiffs be granted the relief they seek.

First, the Court RECOMMENDS that Defendant be ordered to pay Plaintiffs the minimum statutory damages of \$750 per infringed work, as authorized under the Copyright Act (17 U.S.C. § 504(c)(1)), for each of the eight sound recordings listed in the Complaint, in the total principal sum of Six Thousand Dollars (\$6,000.00).

Second, the Court RECOMMENDS that Defendant shall further be ordered to pay Plaintiffs' costs of suit herein in the amount of Four Hundred Twenty Dollars (\$420.00).

Third, the Court RECOMMENDS that Defendant be enjoined from directly or indirectly infringing Plaintiffs' rights under federal or state law in the following copyrighted sound recordings:

"Back 2 Good," on album "Yourself or Someone Like You," by artist "Matchbox 20" (SR# 227-755);

"Kingston Town," on album "Labour Of Love II," by artist "UB40" (SR# 112-173);

"Stay," on album "Back At One," by artist "Brian McKnight" (SR# 279-471);

"Romeo," on album "Second Hand Smoke," by artist "Sublime" (SR# 246-011);

"Never Keeping Secrets," on album "For The Cool In You," by artist "Babyface" (SR# 184-540);

"Cowboy Take Me Away," on album "Fly," by artist "Dixie Chicks" (SR# 275-086);

"Close My Eyes," on album "Butterfly," by artist "Mariah Carey" (SR# 244-014);

"If You Say My Eyes Are Beautiful," on album "Whitney The Greatest Hits," by artist "Whitney Houston" (SR# 284-891);

and in any other sound recording, whether now in existence or later created, that is owned or controlled by the Plaintiffs (or any parent, subsidiary, or affiliate record label of Plaintiffs) ("Plaintiffs' Recordings"), including without limitation by using the Internet or any online media distribution system to reproduce (i.e., download) any of Plaintiffs' Recordings, to distribute (i.e., upload) any of Plaintiffs' Recordings, or to make any of Plaintiffs' Recordings available for distribution to the public, except pursuant to a lawful license or with the express authority of Plaintiffs.

Finally, the Court RECOMMENDS that Defendant also be ordered to destroy all copies of Plaintiffs' Recordings that Defendant has downloaded onto any computer hard drive or server in Defendant's possession, custody, or control without Plaintiffs' authorization and destroy all copies of those downloaded recordings transferred onto any physical medium or device in Defendant's possession, custody, or control.

IT IS SO FOUND AND RECOMMENDED.



/s/ Barry M. Kurren
United States Magistrate Judge
Dated: May 11, 2007

Atlantic Recording Corp. V. Haiola, Civ. No. 06-00622 HG-BMK; FINDING AND RECOMMENDATION THAT PLAINTIFFS' APPLICATION FOR DEFAULT JUDGMENT BE GRANTED.